THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.19023 of 1996

Dated : 09.08.2007

Between:

Sarvagna Cultural Trust, rep., by its Trustee
B.Bhupathi.

..... PETITIONER

And:

Government of Andhra Pradesh,
rep., by its Principal Secretary,
Revenue Department,
Secretariat Buildings, Hyderabad and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

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ORDER:

Petitioner, which is a cultural trust, filed this writ petition questioning the memo bearing No.46174/Asn.I(2)/96-1, dated 03.09.1996 issued by the first respondent.

Brief facts are that petitioner-trust was established for the purpose of advancing and propagation of education, giving medical aid and other reliefs to the poor. The Government, by G.O.Ms.No.1220 Revenue (Assignment.I) Department, dated 16.12.1994 leased out an extent of Acs.7.09 cents in Sy.Nos.356, 356/1 and 357 of Vemagiri village in

favour of the petitioner for a period of 35 years on payment of nominal lease rent of Rs.100/-, specifying certain conditions. However, subsequently the Government reexamined the issue and issued G.O.Ms.No.275 Revenue (Assignment.I) Department, dated 08.06.1995 confirming the lease and specifying three more conditions. After taking possession of the land, petitioner levelled the land and had expended moneys for beautifying the whole area. While so, the first respondent issued a memo dated 03.09.1996 directing the petitioner to show cause as to why the lease shall not be cancelled for alleged violation of conditions of lease. Aggrieved thereby, this writ petition is filed.

Detailed counter-affidavit has been filed on behalf of the respondents.

Heard the learned counsel for both the parties.

This Court, by an order dated 10.09.1996, directed the first respondent not to dispossess the petitioner from the land in question, and by an order dated 27.09.1996, the said interim order was extended until further orders.

The main contention of the learned senior counsel, Sri.Anantha Babu, appearing on behalf of the petitioner is that the impugned memo does not specify as to what charges are levelled against the petitioner and even if the petitioner offers its explanation, it cannot be a befitting explanation. It is the further contention of the learned senior counsel that the impugned memo was issued with a *mala fide* intention at the instance of third parties.

In the light of the said submissions, this Court perused the impugned memo. It is relevant to extract the relevant portion of the impugned memo dated 03.09.01996, which is as under:

> "… Whereas, the Government have received several representations alleging that the lessee has involved in unauthorized activity, such as closing the gate of bathing ghat, construction of permanent structures without permission, encroachment of site behind store shed, construction of

structures for cinema shooting purpose.

.. Government have provisionally decided to cancel the lease orders issued in the above G.Os., as recommended by Collector, E.G.District and propose to take over the possession of the leased out land along with the structures since the lessee had violated the conditions of grant of lease as stipulated in the G.O., second sited…"

From the above it is clear that the charges levelled against the petitioner are vague. When once it is the definite contention of the first respondent that permanent structures were constructed without permission and some site behind the store shed is encroached and some structures are constructed for the purpose of cinema shooting, the then Government should have specified in the impugned memo as to what they are. In the absence of specific details, it is not possible for the petitioner to offer explanation in a befitting manner.

Further, it is stated in the impugned memo that the first respondent called for a report from the Collector East Godavari, who, in turn, recommended to take over possession of the leased out lands. So, the first respondent ought to have served a copy of the said report to the petitioner so that he would have offered his explanation.

For the above reasons, this Court is of the view that the impugned memo dated 03.09.1996 is definitely not in conformity with the established procedure under law, and the same is liable to be set aside.

At this juncture, learned Government Pleader submitted that the impugned memo may be quashed and the Government may be directed to issue a fresh show cause notice with all details.

In the light of the above circumstances, the impugned memo dated 03.09.1996 is hereby quashed. If the Government so chooses, it may issue a fresh show cause notice to the petitioner and proceed in accordance with law. As the petitioner is in possession of the lands in question by virtue of the interim orders dated 10.09.1996 and 27.09.1996, first respondent is hereby directed not to dispossess the

petitioner till the said exercise is completed. As respondents 2 to 4 have come on record by virtue of the orders passed by this Court on 27.11.1997 in W.P.M.P.No.26723 of 1996, if the first respondent so chooses to hold an enquiry, it may issue notice to the said respondents also.

Subject to the above direction, the writ petition is allowed. There shall be no order as to costs.

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sh 09.08.2007